

**Before The
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
BellSouth Corporation)	RM-11299
)	
Petition for Rulemaking To Change The)	
Distribution Methodology For Shared)	
Local Number Portability and Thousands-)	
Block Number Pooling Costs)	

COMPTTEL STATEMENT IN OPPOSITION

COMPTTEL hereby submits its statement in opposition to BellSouth's above captioned Petition For Rulemaking. BellSouth asks the Commission to initiate a proceeding for the purpose of substituting a usage based methodology for the existing revenue-based methodology for recovery of the shared costs of local number portability ("LNP") and thousands-block number pooling among service providers. BellSouth's Petition is both procedurally lacking and short on substance and for these reasons, it should be denied. In the alternative, the Commission should open a Notice of Inquiry, rather than a Notice of Proposed Rulemaking, to explore the continuing viability of the Commission's revenue-based methodology as a competitively neutral cost recovery mechanism.

BellSouth's Petition Fails To Comply With The Commission's Rules

BellSouth requests that the Commission change the methodology for allocating the shared costs of LNP and thousands-block number pooling set forth in Section 52.32 of the Commission's Rules, 47 C. F. R. §52.32. (Petition at 1) Section 1.401(c) of the Commission's Rules, 47 C.F.R. §51.401(c), plainly mandates that a petition for

rulemaking “shall set forth the text or substance of the proposed rule, amendment or rule to be repealed.” BellSouth’s Petition fails to follow this mandate. It neither identifies the particular language in Section 52.32 of the Commission’s Rules that it wants to delete nor the proposed amended language that it wants to replace the existing language. As is true with many regulatory issues, the devil is in the details. Interested parties cannot possibly meaningfully analyze BellSouth’s proposal without notice of the specifics of the language to be deleted or the precise language that BellSouth proposes to substitute. As a result, the Commission should deny BellSouth’s Petition.

BellSouth Has Not Demonstrated The Need For A Change In The Rules

The Commission should reject out of hand BellSouth’s rationale for changing the methodology by which shared costs are allocated to carriers. BellSouth repeatedly and mistakenly maintains that the Commission’s current revenue-based cost allocation formula is inequitable because BellSouth is forced to bear a share of the costs of LNP and thousands-block number pooling for the area covered by the Southeast Region number portability database that is disproportionate to the number and costs of the billable transactions it generates.¹ (BellSouth Petition at 28-32) For example, BellSouth complains that in 2004, it generated less than 3% of the billable transactions for LNP and thousands-block number pooling, but, based on its revenues, was required to pay more than 20% of the shared industry costs during that same year. BellSouth contends that it receives no benefit from the billable transactions generated by other carriers and therefore

¹ A billable transaction is generated every time there is an addition, deletion or modification of a record in the telephone number regional database. (BellSouth Petition at 9) Thus, every time BellSouth wins back an end user with a ported telephone number, disconnects an end user or updates a telephone number record. Under the current rules, these billable transactions are treated as shared costs of number portability. The shared costs are allocated among all telecommunications carriers providing service in the area served by the regional database in proportion to each carrier’s share of the total telecommunications revenues generated in the area that the regional database serves. See Section 52.32 of the Commission’s Rules.

should not be forced to absorb the costs. According to BellSouth, the current revenue based allocation method requires BellSouth to subsidize the porting and pooling costs of other carriers. (BellSouth Petition at 28).

There is a serious flaw in BellSouth's reasoning which the Commission must recognize and wholeheartedly disavow before even considering whether it is appropriate at this time to reexamine the methodology for allocating the shared costs of LNP and thousands-block number pooling. The elephant in the room that BellSouth disingenuously tries to ignore is that *all* carriers and the customers of *all* carriers benefit from the availability and maintenance of an accurate number portability database. Without an accurate database, telephone calls cannot be routed to the intended party, a malfunction that would adversely affect the operation of the public switched telephone network as a whole and reflect poorly on both the carrier serving the called party and the carrier serving the calling party.

Contrary to its allegations, BellSouth does indeed benefit from every billable transaction that adds, deletes and/or modifies a record in the database whether or not BellSouth actually generates the transaction² because the proper functioning of the database and the proper routing of calls to and from BellSouth customers is dependent upon the billable transactions (i.e., the adds, deletes and modifications) generated by all interconnected carriers. Neustar, the Local Number Portability Administrator, notes on its website that it processes millions of transactions per month to ensure that the proper carrier is associated with every ported telephone number through the Number Portability Administration Center ("NPAC"). According to Neustar, "Virtually every call that

² In contrast, BellSouth's usage-based proposal fails to recognize that all carriers benefit from all billable transactions.

terminates within North America relies upon NPAC to be routed to completion.” See <http://www.neustar.com/interoperability/lnp.cfm>.

The fact that BellSouth and every other telecommunications carrier serving BellSouth’s region benefits from each and every billable transaction entered into the Southeast Region LNP database is a critical factor to be weighed in determining the continuing fairness and competitive neutrality of the revenue-based cost allocation methodology. BellSouth controls the largest wireline network in the Southeast Region. It also owns 40% of the nation’s largest wireless carrier. Because BellSouth’s share of the end user customer base covered by the Southeast Region database certainly far exceeds 20%, there is no merit to BellSouth’s complaint that it is forced to absorb a disproportionate share (i.e., 20%) of the industry costs for the LNP database that ensures that all calls to and from its customers are correctly routed.

If The Commission Goes Forward, It Should Do So Via Notice of Inquiry

While COMPTTEL submits that BellSouth has not shown that it bears an inequitable share of industry LNP costs disproportionate to the benefits it receives under the current revenue-based cost allocation methodology, or that there is any need to amend the Commission’s rules, to the extent that the Commission believes that it may be appropriate to reexamine the methodology used to recover shared industry costs, it should proceed via a Notice of Inquiry, rather than a Notice of Proposed Rulemaking. As the Petition makes clear, BellSouth’s usage-based proposal would have a significant impact on all members of the industry that use telephone numbers.³ Before initiating a Notice of Proposed Rulemaking, the Commission should make every effort to fully explore whether a change in the rules is actually needed and whether there is any hard evidence to

³ BellSouth Petition at 31.

support BellSouth's allegation that a revenue-based cost recovery methodology is no longer competitively neutral as required by statute. See 47 U.S.C. §251(e). Through a Notice of Inquiry, the Commission could invite all members of the industry, including those who may not currently be helping to defray the shared costs of LNP and thousands-block number pooling, to file comments on the competitive neutrality issue and afford all interested participants an opportunity to propose alternatives to BellSouth's usage-based cost recovery methodology.

If the Commission determines at the conclusion of the Notice of Inquiry that the revenue based cost recovery methodology no longer meets the statutory test for competitive neutrality, it may then proceed with a Notice of Proposed Rulemaking seeking comment on different cost recovery alternatives and on proposed language to amend Section 52.32 of the Rules. In this way, there will be no rush to judgment on the competitive neutrality issue and all parties will be on notice of the full range of options to implement the competitive neutrality requirement that the Commission has under consideration. Proceeding in this fashion would be analogous to what the Commission is doing as it contemplates whether the revenue-based universal service contribution methodology should be replaced with a connection-based, telephone number-based or some other methodology.⁴

⁴ See *Commission Seeks Comment On Staff Study Regarding Alternative Contribution Methodologies*, FCC 03-31 (released February 26, 2003).

CONCLUSION

For the foregoing reasons, COMPTEL respectfully requests that the Commission deny BellSouth's Petition For Rulemaking. In the alternative, COMPTEL requests that the Commission open a Notice of Inquiry, rather than a Notice of Proposed Rulemaking, to determine whether there is a need for a change in the rules and if so, to request recommendations for cost recovery methodologies other than that proposed by BellSouth.

January 5, 2006

Respectfully submitted,

/s/

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